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Attorney for Defendant

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

JOHN AMBLER AND STACY AMBLER, Plaintiffs, vs. FLATHEAD CONSERVATION DISTRICT, Defendant.	CV 23-151-M-DLC-KLD DEFENDANT’S STATEMENT OF UNDISPUTED FACTS
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COMES NOW, Plaintiff Flathead Conservation District (“FCD”), through their attorney Camisha Sawtelle of Sawtelle Law Firm, PLLC, and files this Statement of Undisputed Facts pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1.

1. FCD is a governmental subdivision of the State of Montana and a public body corporate and politic, duly created and existing under and by virtue of the laws of the State of Montana. § 76-15-103(3), M.C.A.

2. In 1948, affected residents voted to expand FCD's boundaries to incorporate all of Flathead County and incorporated cities and towns, including the unincorporated town of Apgar, Montana. DSOF 1.

3. FCD is charged with:

- a. The administration of laws pertaining to the Montana Natural Streambed and Land Preservation Act, found at Title 75, Chapter 7, Part 1, Montana Code Annotated ("the Act" or "310 Law");
- b. Enforcing the policy of the state of Montana that "its natural rivers and streams and the lands and property immediately adjacent to them within the state are to be protected and preserved to be available in their natural or existing state and to prohibit unauthorized projects and, in so doing, to keep soil erosion and sedimentation to a minimum." § 75-7-102, M.C.A.

4. The rules implementing the Act are set out in the Administrative Rules of Montana 36.2.401 through 410 and FCD's Rules revised in 2019.

5. The Act does not outright prohibit development or work on streams. Rather, the Act requires due consideration and review of any proposed project before implementation. A project is defined broadly by the Act as "a physical

alteration or modification that results in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks.” § 75-7-103(5), M.C.A. The term “immediate banks” is defined in the Administrative Rules of Montana as the area above the mean high water mark and directly adjacent to a stream which when disturbed will physically alter or modify the state of a stream. A.R.M. 36.2.402.

6. FCD, through its volunteer board of supervisors, is responsible for administering the Act, which includes the responsibility and authority to determine its jurisdiction.

7. Stacy Ambler and John Ambler (“Plaintiffs”) purchased real property in Flathead County on June 11, 2019. The property is described as:

Tract 10 of Certificate of Survey Number 17376 situated in Government Lot 3, Section 23, Township 32 North, Range 19 West P.M.M., Flathead County, Montana. (“Ambler Property”).
Deed included as DSOF 2.

8. The Ambler Property was originally part of a much larger parcel of land claimed by Charles Howes on May 21, 1908. DSOF 3.

9. This claim predates the creation of Glacier National Park in 1910. Since the United States General Land Office granted the property to Charles Howes in 1908, the Ambler Property has remained in private ownership.

10. On May 21, 1908 Charles Howes received a patent under the Homestead Act to a 182-acre parcel in Montana. DSOF 4

11. The parcel was surrounded by property that would soon become Glacier National Park. Over the years the original 182-acre parcel was broken up into smaller parcels. A large portion was purchased by the United States Government and became part of Glacier National Park. Other portions remained in private ownership.

12. In 1988 a 0.053-acre portion of the original Howes claim was broken off and granted to Betty Ella Trebesch Schultz. DSOF 5.

13. In 2019 Plaintiffs purchased the 0.053-acre portion of what was initially titled to Charles Howes. DSOF 2

14. Plaintiffs pay property taxes to the Flathead County Treasurer on the Ambler Property. Included in the tax bill is the Soil and Water Conservation Fee, which funds the Flathead Conservation District. DSOF 6.

15. In January, February, and March 2023, FCD received numerous complaints about the house under construction on the Ambler Property. *Public record for Declaratory Ruling available at: flatheadcd.org/310-stream-permits/declaratory-ruling-mcdonald-creek-violation (accessed May 31, 2024).*

16. Pursuant to their Rules, FCD notified Plaintiffs of each complaint filed and gave them 15 days to respond or the matter would be processed and enforced as a violation. Plaintiffs responded and a site inspection was scheduled. *Id.*

17. On February 27, 2023, a site inspection was conducted. On site were: FCD supervisors Roger Marsonette, Scott Rumsey, and John Ellis; Montana Department of Fish, Wildlife and Parks representative Leo Rosenthal; and Petitioners John and Stacy Ambler. The site inspection team (FCD and Montana Department of Fish, Wildlife and Parks representatives) found a house was under construction on the immediate bank of McDonald Creek and the bank had been excavated to create a pad on which to build the house. The pad area had been stabilized with a rock retaining wall on the stream channel side of the property. *Id.*

18. The inspection team determined a violation of the Act had occurred and recommended:

- a. the removal of the house;
- b. the streambank be restored to its original slopes and revegetated;
- c. a 310 permit be obtained prior to removal of the structure and restoration and revegetation of the streambank; and
- d. erosion control measures be implemented prior to the work being done. *Id.*

19. At its March 13, 2023 meeting, the FCD Board accepted the inspection team's recommendations and determined a project had been initiated on a perennial stream without a permit and was thus a violation of the Act. *Id.*

20. On March 20, 2023, Plaintiffs requested FCD to table any decision regarding the complaints to allow time to conduct an analysis of FCD's jurisdiction and determinations. *Id.*

21. Plaintiffs requested a declaratory ruling on April 3, 2023 pursuant to § 75-7-125, M.C.A. regarding:

- a. FCD's determination of jurisdiction;
- b. FCD's decision to require the removal of the structure, restoration of the bank, and a permit be obtained to do so; and

c. FCD's decision to deny additional time to gather, analyze, and present relevant information and scientific data. *Id.*

22. Plaintiffs submitted a request to FCD to dismiss the matter based on their contention that the state does not have jurisdiction over a private inholding. *Id.*

23. On April 10, 2023, in accordance with its rules, FCD issued an order to cease and desist all activity in the area. Plaintiffs substantially complied with the order. *Id.*

24. On May 3, 2023, at a special meeting, FCD accepted jurisdiction for the declaratory ruling. *Id.*

25. A public hearing was scheduled for August 25, 2023, to address, first, whether state law applies to private property within the boundary of Glacier National Park; and second, whether Plaintiffs' house is a project requiring a permit under the Act and FCD rules. *Id.*

26. At the public hearing on August 25, 2023 written and oral presentations were accepted. The Hearing Officer reviewed the information presented and determined that:

- a. FCD has the authority to determine its jurisdiction and has the responsibility to administer the Act on projects undertaken by private parties.
 - b. The home, decks, roof line, and retaining wall are within the immediate banks of McDonald Creek and is a physical alteration or modification that resulted in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks. MCA § 75-7-103(6), ARM 36.2.402(5).
 - c. Given the intent and policy of the Act, given the federal government has neither regulated the structure nor indicated the Act interferes with the purpose, policy, and goals of the park, and given the totality of information in the record and a reasonable reconciliation of the information, the record supports a determination FCD has jurisdiction over the Amblers' property on McDonald Creek. *Id.*
27. FCD accepted the Hearing Officer's recommendations.
28. FCD has issued 310 permits for other projects on federal lands, including Glacier National Park. Examples include a permit granted to Flathead Electric Coop to bore under a stream on property owned by the U.S. Government in

Glacier National Park; a permit granted to Big Mountain Inc. to replace a culvert on property owned by the U.S. Forest Service; and, a permit granted to the Forest Service to maintain roads across private property. DSOF 7.

Respectfully submitted this 3 day of June, 2024.

SAWTELLE LAW FIRM PLLC

By: /s/ Camisha Booth Sawtelle
Attorney for Defendant

St.C - 44

APPLICATION FOR CERTIFICATE OF INCLUSION OF ADDITIONAL
TERRITORY WITHIN THE FLATHEAD SOIL CONSERVATION DISTRICT

Hon. Sam W. Mitchell
Secretary of State
Helena, Montana

The undersigned supervisors of the Flathead Soil
Conservation District respectfully represent;

1. That heretofore the Flathead Soil Conserv-
ation District was duly organized as a governmental subdivision of this
State, and a public body corporate and politic, as will more particul-
arly appear by the certificate of organization of said district recorded
in your office of the 13th day of April, 1945.

2. That pursuant to the provisions of the Soil Conservation Dis-
tricts Law, Chapter 72 of the Session Laws of the Twenty-sixth Legis-
lative Assembly of Montana, a petition for the inclusion of additional
territory within the Flathead Soil Conservation
District was filed with the State Soil Conservation Committee; that the
proceedings specified in the said act were taken pursuant to the said
petition as more fully appears in the statement by the State Soil Con-
servation Committee hereto attached and made a part of this application;
that this application is being filed in order that said additional ter-
ritory may be included within the said district and become a part there-
of, as provided by the said act; and that the undersigned are the duly
appointed and elected supervisors of the said Soil Conservation Dist-
rict.

St.C - 44

3. That the names and official residences of the undersigned supervisors are as follows:

A. W. Reimer	Creston, Montana
Frank Fordik	Big Fork, Montana
Art Ballinger	Kalispell, Montana
O. E. Dortch	Marion, Montana
Conrad Gilbertson	Kalispell, Montana

That certified copies of the appointments of the appointed supervisors, and certificates of election of the elected supervisors evidencing their right to office are submitted herewith.

4. That the principal office of the supervisors of the said district is located at Kalispell, Montana.

Wherefore, the undersigned supervisors of the said district respectfully request that the Secretary of State make and issue to the undersigned supervisors a certificate, under the seal of the State, of the due inclusion of the said additional territory within the Flathead Soil Conservation District.

/s/ A. W. Reimer

/s/ Conrad Gilbertson

/s/ O. E. Dortch

/s/ A. W. Ballenger

/s/ Frank Fordik

St.C - 44

STATE OF MONTANA)
) SS:
 County of Flathead)

A. W. Reimer, Frank Fordik, Art Ballinger,
O. E. Dortch, and Conrad Gilbertson, whose names are sub-
 scribed to the foregoing application state that the matters and things
 therein contained are true and correct.

/s/ A. W. Reimer

/s/ Conrad Gilbertson

/s/ O. E. Dortch

/s/ A. W. Ballenger

/s/ Frank Fordik

Subscribed and sworn to before me this _____ day of _____, 19__.

Residing at _____

My commission expires _____

STATE OF MONTANA)
) SS:
 County of Flathead)

I, _____, a _____ in and for
 the county and state aforesaid do certify that A. W. Reimer,
Frank Fordik, Art Ballinger, O. E. Dortch, and
Conrad Gilbertson, whose names are signed to the foregoing application,
 are personally known to me and known by me to be the officers as affirmed
 therein, and that each has subscribed thereto in my presence. Given under
 my hand and seal this 9th day of June, 19 48.

/s/ A. Flain, County Clerk

Residing at Flathead County

My commission expires Montana

(OFFICIAL BALLOT)

REFERENDON ON INCLUSION OF ADDITIONAL TERRITORY
WITHIN THE FLATHEAD SOIL CONSERVATION DISTRICT

March 24, 1948

Place an X on the line before the proposition which you favor.

____ FOR inclusion of the lands below described, and lying in the County of
Flathead, within the Flathead Soil Conservation District.

____ AGAINST inclusion of the lands below described, and lying in the County
of Flathead, within the Flathead Soil Conservation District.

The boundaries of the land proposed to be included within the Flathead
Soil Conservation District are as follows:

All lands lying within Flathead County, not included in the Flathead
and Eastern Sanders County Soil Conservation Districts, and
excluding all incorporated towns or cities.

DEPARTMENT OF THE SECRETARY OF STATE OF THE
STATE OF MONTANA

I, SAM W. MITCHELL, SECRETARY OF STATE OF THE STATE OF MONTANA,
DO HEREBY CERTIFY THAT

FLATHEAD SOIL CONSERVATION DISTRICT

BY ITS SUPERVISORS

A. W. REIMER OF CRESTON, MONTANA
FRANK FORDIK OF BIG FORK, MONTANA
ART BALLINGER OF KALISPELL, MONTANA
O. E. DORTCH OF MARION, MONTANA
CONRAD GILBERTSON OF KALISPELL, MONTANA

has this day filed in this office, in accordance with the provisions
of Chapter 72, Section 8, paragraph H, Laws of Montana, 1939, the
following documents:

APPLICATION FOR CERTIFICATE OF INCLUSION OF ADDITIONAL TERRITORY
WITHIN THE SAID SOIL CONSERVATION DISTRICT;
STATEMENT BY THE STATE SOIL CONSERVATION COMMITTEE;
CERTIFICATE OF ELECTION OF SUPERVISORS;
CERTIFICATES OF APPOINTMENT AND DETERMINATION THAT
INCLUSION OF THE ADDITIONAL TERRITORY IS ADMINISTRATIVELY
PRACTICABLE AND FEASIBLE:

IN WITNESS WHEREOF, I have
herunto set my hand and affixed the
Great Seal of the State of Montana,
at Helena, the Capital, this 17th
day of June, A. D. 1948

GREAT SEAL OF THE
STATE OF MONTANA

/s/ Sam W. Mitchell
Secretary of State

by Clifford L. Walker
Deputy

CERTIFICATE EXECUTED IN DUPLICATE

64984

STATE SOIL CONSERVATION COMMITTEE OF MONTANA
OFFICE OF THE STATE SOIL CONSERVATION COMMITTEE
Bozeman, Montana

IN THE MATTER OF THE INCLUSION OF)
ADDITIONAL TERRITORY WITHIN THE)
FLATHEAD)
SOIL CONSERVATION DISTRICT)

Statement by the State
Soil Conservation
Committee

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

Be it known that on the 22nd day of December, 1947, a petition for the inclusion of additional territory within the Flathead Soil Conservation District, signed by 29 land occupiers was duly filed in the Office of the State Soil Conservation Committee;

That on the 6th day of February, 1948, at Columbia Falls; on the 6th day of February, 1948, at Whitefish; on the _____ day of _____, 19____, at _____; on the _____ day of _____, 19____, at _____; public hearing was held after due notice of the said hearing had been given as required by law;

That on the 13th day of February, 1948, the State Soil Conservation Committee did duly determine that there is need in the interest of the public health, safety and welfare, for including the additional territory within the Flathead Soil Conservation District and did define the boundaries of such additional territory;

That thereafter due notice was given of a referendum to be held within the territory so defined by the Committee on the question of inclusion of said territory within the said district;

That the said referendum was held within the said defined boundaries on the 24th day of March, 1948;

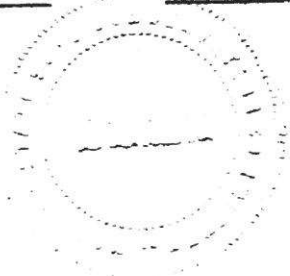
That the result of the said referendum showed that a majority of the votes cast in the said referendum were in favor of the inclusion of said additional territory within the said district;

That thereafter on the 9th day of April, 1948, the State Soil Conservation Committee did duly determine that inclusion of said additional territory within the said district is administratively practicable and feasible;

That the boundaries of the said additional territory were defined by the State Soil Conservation Committee as follows:

(see reverse)

IN WITNESS WHEREOF, the State Soil Conservation Committee has caused these presents to be executed by its secretary under the seal of the Committee, this 11th day of June, 1948.



Freeman C. Anderson
Secretary, State Soil Conservation
Committee

Flathead # 2

The boundaries of the land proposed to be included within the Flathead Soil Conservation District are as follows:

All lands lying within Flathead County, not included in the Flathead and Eastern Sanders County Soil Conservation Districts, and excluding all incorporated towns or cities.



STATE SOIL CONSERVATION COMMITTEE OF MONTANA

NOTICE OF HEARING UPON INCLUSION OF ADDITIONAL TERRITORY EMBRACING LAND
LYING IN FLATHEAD COUNTY, WITHIN THE FLATHEAD
SOIL CONSERVATION DISTRICT

WHEREAS, on the 22nd day of December, 1947, there was duly filed in the office of the State Soil Conservation Committee at Bozeman, Montana, a petition signed by twenty-nine (29) land occupiers pursuant to the provisions of the Soil Conservation Districts Law, Chapter 72 of the Session Laws of the 26th Legislative Assembly of Montana, requesting the inclusion of additional territory within the Flathead Soil Conservation District, and

WHEREAS, the lands sought to be included in the said district by said petition comprise lands in Flathead County, described substantially as follows:

Those lands lying in Flathead County not
already included in the Flathead Soil Conservation
District.

NOW, THEREFORE, Notice is hereby given that a public hearing will be held pursuant to the said petition, on the question of the desirability and necessity in the interest of the public health, safety and welfare of the inclusion of such additional territory within the Flathead Soil Conservation District; on the question of the appropriate boundaries to be assigned to such additional territory; upon the propriety of the petition, and all other proceedings taken under the said act; and upon all questions relevant to such inquiries. The said public hearing will be held by the State Soil Conservation Committee on Friday, the 6th day of February, 1948, beginning at 2:00 o'clock, p. m., in _____, at Columbia Falls, in the County of Flathead; on Friday, the 6th day of February, 1948, beginning at 8:00 o'clock p. m., in _____, at Whitefish, in the County of Flathead.

All persons, firms and corporations who shall hold title to, or shall be in possession of, any lands lying within the limits of the above-described territory, whether as owners, lessees, renters, tenants, or otherwise, and all other interest parties are invited to attend and will be given opportunity to be heard at the times and places hereinbefore specified.

STATE SOIL CONSERVATION COMMITTEE

BY /s/ J. E. Norton
Chairman

Dated this 14th day of January, 1948.

St.C - 39

STATE SOIL CONSERVATION COMMITTEE OF MONTANA

STATE OF MONTANA

IN AND BEFORE THE STATE SOIL CONSERVATION COMMITTEE

IN THE MATTER OF A PETITION FOR THE	}	Determination that inclusion of
INCLUSION OF ADDITIONAL TERRITORY		the additional territory is admin-
WITHIN THE <u>FLATHEAD</u>		istratively practicable and feasible
SOIL CONSERVATION DISTRICT		(upon favorable vote at referendum).

This matter came on this 9th day of April, 1948, for determination as to the practicability and feasibility of including certain additional territory within the Flathead Soil Conservation District, upon the petition duly filed on the 22nd day of December, 1947; upon hearing held at Columbia Falls, in the County of Flathead, on the 6th day of February, 1948; at Whitefish, in the County of Flathead, on the 6th day of February, 1948; at _____, in the County of _____, on the _____ day of _____, 19____; at _____, in the County of _____, on the _____ day of _____, 19____; which hearing was held after due notice had been given as required by law; upon a determination by the Committee that there is need in the interest of the public health, safety and welfare, for including the territory considered at the said hearing within the said soil conservation district; upon the determination by the Committee of the boundaries of said additional territory; and upon a referendum on the proposition of the inclusion of said additional territory within the said district duly held on the 24th day of March, 1948, within the limits of the boundaries defined

St.C - 39

by the Committee, after due notice of the said referendum had been given as required by law, and in which referendum a majority of the votes cast were in favor of such inclusion.

The Committee has given due regard and weight to the attitudes of the occupiers of land lying within the defined boundaries, the number of land occupiers eligible to vote in the said referendum who did vote, the proportion of the votes cast in the said referendum in favor of inclusion to the total number of votes cast, the approximate wealth and income of the land occupiers of the additional territory, the probable expense of carrying on erosion-control operations within the said territory, and other economic and social factors which are relevant. The Committee has given due regard to the legislative determinations set forth in Section 2 of the Soil Conservation Districts Law of this State.

IT IS NOW, THEREFORE, CONSIDERED AND DETERMINED -

That the inclusion of the said additional territory, with the boundaries as heretofore defined by the Committee, within the Flathead Soil Conservation District, is administratively practicable and feasible.

E. E. Norton Chairman
Alvin H. Kunst
R. B. Estell
F. M. Harrington, Exp. Sec.

STATE SOIL CONSERVATION COMMITTEE



201900014116
Page: 1 of 1
Fees: \$7.00
7/11/2019 2:16 PM

Debbie Pierson, Flathead County MT by TM

This Document Prepared By:

Fidelity National Title Company of Flathead Valley, LLC
8000 MT Hwy 35, Suite 3
Bigfork, MT 59911

After Recording Return To:

John Ambler and Stacy Ambler
1375 Loring Street
San Diego, CA 92109

Order No.: FT1585-191046-BK

Recorded by Fidelity National Title

FNT 1585-191046

Approved 7/11/19 CF 0378700

WARRANTY DEED

(Joint Tenancy)

For Value Received Betty Ella Trebesch Schultz, the grantor(s), do(es) hereby grant, bargain, sell and convey unto John Ambler and Stacy Ambler, as joint tenants with right of survivorship (and not as tenants in common), and to the survivor of said named joint tenants, and to the heirs and assigns of such survivor, of 1375 Loring Street, San Diego, CA 92109, the grantee(s), the following described premises, in Flathead County, Montana, to wit:

Tract 10 of Certificate of Survey No. 17376, situated in Government Lot 3 of Section 23, Township 32 North, Range 19 W, P.M.M., Flathead County, Montana

TO HAVE AND TO HOLD unto the Grantee and to the heirs and assigns forever, subject, however, to:

- A. All reservations and exceptions of record and in patents from the United States or the State of Montana;
- B. All existing easements and rights of way of record, building, use zoning, sanitary and environmental restrictions;
- C. Taxes and assessments for the year and subsequent years;
- D. All prior conveyances, leases or transfers of any interest in minerals, including oil, gas and other hydrocarbons;

Except with reference to items referred to in paragraphs above, this Deed is given with the usual covenants expressed in §30-11-110, Montana Code Annotated.

This conveyance is made and accepted upon the express agreement that the consideration heretofore paid constitutes an adequate and full consideration in money or money's worth.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

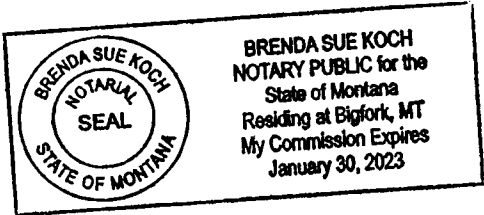
Betty Ella Trebesch Schultz

State of Montana
County of Flathead

This instrument was acknowledged before me on June 11, 2019 by Betty Ella Trebesch Schultz.

Notary Public for the State of Montana
Residing at Bigfork
My Commission Expires: _____

(SEAL)



559

The United States of America,

HOMESTEAD CERTIFICATE NO. 590
APPLICATION 1600

To all to Whom these Presents shall Come, Greeting:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Kalispell, Montana, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the Acts supplemental thereto, the claim of Charles Howen,

has been established and duly consummated, in conformity to law, for the

lots one, two, and three, the south half of the northeast quarter, and the northwest quarter of the southeast quarter of section twenty-three in Township thirty two north of Range nineteen West of the Montana Meridian, Montana, containing one hundred eighty-two and forty-six-hundredths acres.

23-32-19

according to the Official Plat of the survey of the said land, returned to the General Land Office by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the United States unto the said Charles Howen the tract of land above described:

TO HAVE AND TO HOLD The said tract of land, with the appurtenances thereof, unto the said Charles Howen

and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of Courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt, President of the United States of America, have caused these Letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twenty-first day of May, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States the one hundred and thirty-second.

BY THE PRESIDENT:

Theodore Roosevelt



By A. C. Stump Assistant Secretary,

H. W. Sanford

Recorder of the General Land Office.

Recorded

Vol. 775 Page 171

Filed for record at the request of Chas. Howen

this 12th day of March

1901, at 1-50 o'clock P.M.

By

A. J. Shaw

Deputy Recorder. No. 732-

Fred B. Perry

County Recorder.

DSOF-3

The United States of America,

To

Charles Howes.

P A T E N T

Dated May 21, 1908

Filed March 12, 1914 at 1:30 P. M.

Recorded in Book 84 of

Patents Page 559.

Pursuant to the Act of Congress approved 20th May, 1862,
"To Secure Homesteads to Actual Settlers on the Public Domain,"
and the Acts supplemental thereto,

There is granted by the United States unto the said Charles
Howes, and to his heirs and assigns forever, the

Lots one, two and three, the south half of the northeast
quarter, and the northwest quarter of the southeast quarter of
section twenty-three in Township thirty two north of Range
nineteen West of the Montana Meridian, Montana, containing one
hundred eighty-two and forty-six hundredths acres, according
to the Official Plat of the survey of the said land returned to
the General Land Office by the Surveyor General.

Subject to any vested and accrued water rights for mining,
agricultural, manufacturing, or other purposes, and rights to
ditches and reservoirs used in connection with such water rights,
as may be recognized and acknowledged by the local customs, laws,
and decisions of Courts, and also subject to the right of the
proprietor of a vein or lode to extract and remove his ore
therefrom, should the same be found to penetrate or intersect
the premises hereby granted, as provided by law. And there is
reserved from the lands hereby granted, a right-of-way thereon
for ditches or canals constructed by the authority of the United
States.

(General Land Office Seal)

By The President:
Theodore Roosevelt,
H.W. Sanford, Recorder of the
General Land Office.
By A.S. Stump, Assistant Secy.

88187 12570
WARRANTY DEED

This INDENTURE, Made this 5th day of July, 1988, between Mary E. Trebesch, Holup, of Dutton, Montana 59433, the party of the first part, and Betty Ellis Trebesch, Schultz, of Dutton, Montana 59433, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Dollars (\$) to in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said party of the second part, and to heirs and assigns, forever, all the certain lot, piece, or parcel of land situate, lying and being in the County of Flathead and State of Montana, and particularly described as follows, to-wit:

SEE ATTACHED SHEET

TOGETHER with all and singular the hereinbefore described premises together with all tenements, hereditaments, and appurtenances, thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest; right of dower and right of homestead, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the FIRST PART, of in or to the said premises, and every part and parcel thereof, with the appurtenances, thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with appurtenances, unto the said party of the second part and to her heirs and assigns, forever. And the said party of the first part and her heirs do hereby covenant that she will forever Warrant and Defend her right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second party, her heirs and assigns, against the acts and deeds of the said party of the first part and all and every person or persons, whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said party of the FIRST PART have hereunto set hand, and seal the day and year first hereinbefore written.

Signed, Sealed and Delivered in the presence of

Mary E. Trebesch, Holup (SEAL)
 Betty Ellis Trebesch, Schultz (SEAL)
 STATE OF MONTANA ss. (SEAL)
 County of Flathead

On this 5th day of July, 1988, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Mary E. Trebesch, Holup, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Notary Public for the State of Montana.
 Residing at
 My Commission expires 2-1-1990

Filed for record at the request of 19 at o'clock M.
 County Clerk and Recorder. By Deputy.
 Reception No. Fee \$ Paid.

88187/2570

369/337 TR 2EX

03787220
03787530

326/116 TR 280A

The East one-half ($E\frac{1}{2}$) of a tract of land situated in Lot three (3) of Section Twenty-three (23), Township Thirty-two (32) North of Range Nineteen (19) West, "N.M.", more particularly described as follows: to-wit: commencing at an iron pin on the South line of Lot 3, Section 23, Township 32 North of Range 19 West, which pin being the south end of the Base compromise line; thence due west a distance of 131 feet to a point; thence due north a distance of 658.3 feet to a point; thence North 88 degrees 08' West, a distance of 266.8 feet to a point; thence North 67 degrees 10' West, a distance of 35.2 feet; thence South 56 degrees 46' East 125 feet to the true point of beginning of the tract of land to be conveyed; thence south 25 degrees 44' west, 100 feet; thence south 56 degrees 46' East 50 feet; thence north 25 degrees 44' west, 100 feet; thence North 56 degrees 46' West 50 feet to the true point of beginning, containing 500 square feet more or less.

A tract of land situated in lot 3 of Section 23 Township 32 North of Range 19 West, and particularly described as follows: Beginning at a point 1620 feet east of and 700 feet south of the northwest corner of said Section 23; thence south 45 degrees 26' east a distance of 94 feet measured along the westerly boundary of the Fish Creek Road, to a point; thence south 75 degrees 14' west a distance of 52 feet to a point on the east bank of McDonald River; thence north 15 degrees 16' west a distance of 92 feet more or less along the easterly bank of McDonald River; thence northerly approximately 15 feet to the place of beginning. Together with the right to have and use Water for domestic purposes upon said premises herein granted by means of a pipe line running from other land owned by the grantors immediately to the southeast so long as the grantors shall remain the owners thereof.

STATE OF MONTANA, }

County of Flathead }

ss

Recorded at the request of Betty Ella Schultz
this 5 day of July 1985 at 12:57 o'clock P M and recorded in
the records of Flathead County, State of Montana.

Fee \$ 10.00 Pd.RECEPTION NO. 88187/2570RETURN TO Betty SchultzBox 192 Anton, MT 59433

Susan H. Haverfield
Flathead County Clerk and Recorder
Dwight C. Kauffman
Deputy



Flathead County Treasurer
Adele Krantz
290 A North Main
Kalispell, MT 59901

AMBLER, JOHN & STACY
1375 LORING ST
SAN DIEGO CA 92109

**2023 REAL ESTATE
STATEMENT OF TAXES PAYABLE**

TOTAL 2023 TAXES DUE: \$354.37

ASSESSOR#: 0378700 STATEMENT#: 202325701

Property Location: 74 MCDONALD CREEK LN
Legal Description: (1) 07-4406-23-2-02-01-0000
Sec:23 Twn:32 Rng:19
TR 2EBCA IN L 3

Valuation Type	Market Value	Taxable Value
Real Estate	81,710	1,103
Improvements	0	0
Personal Property	0	0
TOTAL	81,710	1,103

Billing date: 09/29/2023

CONSOLIDATED TAX DETAIL							
Levy Description		Amount	Levy Description		Amount		
COUNTY			Total COUNTY		113.96		
911 GENER OBLIG BOND		1.00	SCHOOL				
AIRPORT		2.20	CFHS BLDG RESERVE		0.90		
AREA AGENCY ON AGING		0.50	CFHS BUS RESERVE		2.80		
BOARD OF HEALTH		3.98	CFHS GENERAL		34.38		
BRIDGE		2.60	CFHS TRANSPORTATION		5.98		
CO PERM MED LEVY		8.64	CFHS TUITION		2.68		
COMP INSURANCE		4.20	COMMUNITY COL. RET.		3.02		
COUNTY LIBRARY		4.62	ELEM RETIREMENT		20.94		
COUNTY PARKS		1.26	FVCC ADULT EDUCATION		1.10		
COUNTY PLANNING		1.10	FVCC DEBT SERVICE		2.10		
COUNTY POOR FUND		0.14	FVCC GENERAL		7.38		
COUNTY RETIREMENT		8.60	FVCC PERMIS MED LEVY		3.50		
COUNTYWIDE MOSQUITO		0.44	HIGH SCH RETIREMENT		9.70		
DISTRICT COURT		1.00	SD 08 BLDG RESERVE		2.16		
EMS		0.74	SD 08 GENERAL		30.82		
EXTENSION		0.30	SD 08 TECHNOLOGY		1.14		
FAIR		0.62	SD 08 TRANSPORTATION		8.18		
GENERAL		21.22	TRANSPORTATION		1.80		
GROUP INSURANCE		0.10	Total SCHOOL		138.58		
JUVENILE DETENTION		0.16	STATE				
NOXIOUS WEEDS		1.10	ELEM GENERAL MAINT		29.78		
PERM SRS LEVY		0.50	EQUALIZATION MILLAGE		36.28		
PORT AUTHORITY		1.22	HIGH SCH GEN MAINT		19.86		
PUBLIC TRANSIT		0.76	UNIVERSITY MILLAGE		6.62		
ROAD		17.18	Total STATE		92.54		
SEARCH & RESCUE		1.10	Total General Taxes		345.08		
SHERIFF		26.48					
SPECIAL EMS PROGRAM		2.20					
SPECIAL ASSESSMENTS							
			Description	Code	1st Half	2nd Half	
			SOIL & WATER CONSERV	085	0.59	0.59	
			FECC SPECIAL DIST	C34	4.06	4.05	
			TOTAL SPECIAL ASSESSMENTS		4.65	4.64	
This property may qualify for: Montana Disabled Veteran Property Tax Relief, Property Tax Assistance Program, Land Value Assistance Program and/or Elderly Homeowner's Tax Credit. Contact the Department of Revenue at (406)758-5700 for further information.			General Taxes	District	Mill Levy	1st Half	2nd Half
			08 / West Glacier Elementary	0C23	312.8600	172.54	172.54
			TOTAL TAXES DUE CURRENT YEAR:				\$354.37

2ND HALF PAYMENT

2023 Flathead County Real Estate Tax Statement
RETURN THIS STUB WITH YOUR PAYMENT

2ND HALF PAYMENT

ASSESSOR#: 0378700 STATEMENT#: 202325701

DUE BY 5:00 P.M. ON OR BEFORE: 05/31/2024

SECOND HALF AMOUNT DUE: \$177.18

AMBLER, JOHN & STACY
1375 LORING ST
SAN DIEGO CA 92109

1ST HALF/FULL YEAR PAYMENT

2023 Flathead County Real Estate Tax Statement
RETURN THIS STUB WITH YOUR PAYMENT

1ST HALF/FULL YEAR PAYMENT

ASSESSOR#: 0378700 STATEMENT#: 202325701

DUE BY 5:00 P.M. ON OR BEFORE: 11/30/2023

TOTAL TAXES DUE FOR YEAR: \$354.37

FIRST HALF AMOUNT DUE: \$177.19

AMBLER, JOHN & STACY
1375 LORING ST
SAN DIEGO CA 92109

Revised: 6/5/15 (310 form 270). Form may be downloaded from: www.dnrc.mt.gov/licenses-and-permits/stream-permitting

AGENCY USE ONLY: Application # _____ Date Received _____
Date Accepted _____ / Initials _____ Date _____

tabbies FCD-123

This space is for all Department of Transportation and SPA 124 permits (government projects).

Project Name _____

Control Number _____ Contract letting date _____

MEPA/NEPA Compliance ☐ Yes ☐ No If yes, #14 of this application _____

FL2020009

LO Name: FNF/Big Mtn Wtr Sports

Stream: Haskill Creek trib

S35 T32 R22 Topog: Whitefish

Supervisor/s: LC

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all local, state, or federal permits listed below. The applicant is the responsible party for the project and the point of contact unless otherwise designated. "Information for Applicant" includes agency contacts and instructions for completing this application. To avoid delays, submit all required information, including a project site map and drawings. Incomplete applications will result in the delay of the application process. Other laws may apply.

The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.

✓	PERMIT	AGENCY	FEE
x	310 Permit	Local Conservation District	No fee
	SPA 124 Permit	Department of Fish, Wildlife and Parks	No fee
	Floodplain Permit	Local Floodplain Administrator	Varies by city/county (\$25 - \$500+)
	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers	Varies (\$0 - \$100)
	318 Authorization	Department of Environmental Quality	\$250 (318);
	401 Certification		\$400 - \$20,000 (401)
	Navigable Rivers Land Use License, Lease, or Easement	Department of Natural Resources and Conservation, Trust Lands Management Division	\$50, plus additional fee

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): Big Mountain Winter Sports Inc

Has the landowner consented to this project? ☒ Yes ☐ No

Mailing Address: PO Box 1400

Physical Address: 3808 Big Mountain road Whitefish Mt.

Day Phone: 406 250-5976 [Click here to enter](#) Evening Phone: [Click here to enter](#) E-Mail: chesterp@skiwhitefish.com

NAME OF LANDOWNER (if different from applicant): Flathead National forest

Mailing Address: [Click here to enter mailing address or N.A.](#)

Physical Address: [Click here to enter physical address or N.A.](#)

Day Phone: [Click here to enter or N.A.](#) Evening Phone: [Click here to enter or N.A.](#) E-Mail: [Click here to enter or N.A.](#)

NAME OF CONTRACTOR/AGENT): Chester Powell / Doug Yaeger

Mailing Address: Same as above

Physical Address: [Click here to enter name or N.A.](#)

Day Phone: [Click here to enter name or N.A.](#) Evening Phone: [Click here to enter name or N.A.](#) E-Mail: [Click here to enter name or N.A.](#)

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location Tributary of Haskill creek Nearest Town Whitefish

Address/Location: Geocode (if available): 3222X35-XXX-FS

Section 1/4 SE 1/4 SE 1/4, Section 35, Township 32 N, Range R22 W County Flathead

Longitude 1142131.54N, Latitude 482957.08N

Lat

Long

The state owns the beds of certain state navigable waterways. Is this a state navigable waterway? Yes or No. If yes, send copy of this application to appropriate DNRC land office – see Information for Applicant.

ATTACH A PROJECT SITE MAP OR A SKETCH that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) a circled "X" representing the exact project location. IF NOT CLEARLY STATED ON THE MAP OR SKETCH, **PROVIDE WRITTEN DIRECTIONS TO THE SITE.**

C. PROJECT INFORMATION

1. TYPE OF PROJECT (check all that apply)

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Bridge/Culvert/Ford Construction | <input type="checkbox"/> Fish Habitat | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Bridge/Culvert/Ford Removal | <input type="checkbox"/> Recreation (docks, marinas, etc.) | <input type="checkbox"/> Dredging |
| <input type="checkbox"/> Road Construction/Maintenance | <input type="checkbox"/> New Residential Structure | <input type="checkbox"/> Core Drill |
| <input type="checkbox"/> Bank Stabilization/Alteration | <input type="checkbox"/> Manufactured Home | <input type="checkbox"/> Placement of Fill |
| <input type="checkbox"/> Flood Protection | <input type="checkbox"/> Improvement to Existing Structure | <input type="checkbox"/> Diversion Dam |
| <input type="checkbox"/> Channel Alteration | <input type="checkbox"/> Commercial Structure | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Irrigation Structure | <input type="checkbox"/> Wetland Alteration | <input type="checkbox"/> Pond |
| <input type="checkbox"/> Water Well/Cistern | <input type="checkbox"/> Temporary Construction Access | <input type="checkbox"/> Debris Removal |
| <input type="checkbox"/> Excavation/Pit | <input type="checkbox"/> Other _____ | |

2. PLAN OR DRAWING of the proposed project **MUST** be attached. **This plan or drawing must include:**

- | | |
|---|---|
| <ul style="list-style-type: none"> • a plan view (looking at the project from above) • dimensions of the project (height, width, depth in feet) • location of storage or stockpile materials • drainage facilities • an arrow indicating north | <ul style="list-style-type: none"> • a cross section or profile view • an elevation view • dimensions and location of fill or excavation sites • location of existing or proposed structures, such as buildings, utilities, roads, or bridges |
|---|---|

3. IS THIS APPLICATION FOR an annual maintenance permit? ☐ Yes ☒ No
(If yes, an annual plan of operation must be attached to this application – see "Information for Applicant")

4. PROPOSED CONSTRUCTION DATE. Include a project timeline. Start date 6/1/2020
Finish date 7/1/2020 is any portion of the work already completed? ☐ Yes ☒ No
(If yes, describe the completed work.)

5. WHAT IS THE PURPOSE of the proposed project?
Creek crossing for proposed access to lower terminal site of relocated chair lift.

6. PROVIDE A BRIEF DESCRIPTION of the proposed project.
Installation of 60 inch dia culvert

7. WHAT IS THE CURRENT CONDITION of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands.
Forested area, no nearby structures or wetlands. Stable banks heavily vegetated. Either side approximately 2.5' stream width, depth 4"-6" at high water flows.

8. PROJECT DIMENSIONS. How many linear feet of bank will be impacted? How far will the proposed project encroach into and extend away from the water body?
Proposed culvert crossing of 32 feet. 64 lineal feet of bank impacted.

9. **VEGETATION.** Describe the vegetation present on site. How much vegetation will be disturbed or covered with fill material during project installation? (Agencies require that only vegetation necessary to do the work be removed.) Describe the revegetation plan for all disturbed areas of the project site in detail. Disturbance of vegetation will be the length of the pipe plus 2' at either end. Fill material will be brought down from proposed ski way excavation to cover pipe

10. **MATERIALS.** Describe the materials proposed to be used. Note: This may be modified during the permitting process. It is recommended you do not purchase material until all permits are issued.

Cubic yards/Linear feet	Size and Type	Source
426	Glacier Till	On Site

11. **EQUIPMENT.** List all equipment that will be used for construction of the project. How will the equipment be used on the bank and/or in the water? Note: Make sure equipment is clean and free of weeds, weed seeds, and excess grease before using it in the water waterway. To prevent the spread of aquatic invasive species, to the extent practical, remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species. Drain water from machinery and let dry before moving to another location.

50,000 lb. Excavator with hydraulic thumb, D6 Dozer, 6 foot drum vibratory single drum roller. Heavy Equipment will not be in the water course.

12. **DESCRIBE PLANNED EFFORTS TO MINIMIZE PROJECT IMPACTS.** Consider the impacts of the proposed project, even if temporary. What efforts will be taken to:

- Minimize erosion, sedimentation, or turbidity?

Wire Backed Silt Fence, with straw waddle be placed on all four sides of the Skiway fill slope, to control the sediment, the erosion will be controlled by grass seeding with native vegetation scattered over the top. The Turbidity will be controlled by minimal water course bottom disturbance and side bank disturbance to install culvert.

- Minimize stream channel alterations?

Just enough to get the culvert to lay in the bed.

- Minimize effects to stream flow or water quality caused by materials used or removal of ground cover?

Minimal bottom disturbance, to get culvert to lay in the channel. The side disturbance will be enough to get culvert to set in the bed.

- Minimize effects on fish and aquatic habitat?

No fish

- Minimize risks of flooding or erosion problems upstream and downstream?

No risk

- Minimize vegetation disturbance, protect existing vegetation, and control weeds?

Heavy equipment will be weed washed before entering USFS land. The disturbed soils will be seeded, and the vegetation outside of work zone will remain. All native soils in work area will be saved and used for revegetation.

13. **WHAT ARE THE NATURAL RESOURCE BENEFITS** of the proposed project?

Haul route to remove timber, skier access and emergency egress .

14. **LIST ALTERNATIVES** to the proposed project. Why was the proposed alternative selected?

none

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS ONLY.

If applying for a Section 404 or Section 10 permit, fill out questions 1-3. If applying for a floodplain permit, fill out questions 3-6. (Additional information is required for floodplain permits – See “Information for Applicant.”)

1. Will the project involve placement of dredged (excavated) and/or fill material below the ordinary high water mark, in a wetland, or other waters of the US? If yes, what is the surface area to be filled? How many cubic yards of fill material will be used? Note: Wetland delineations are required if wetlands are affected.

[Click here to enter text.](#)

Case 9:23-cv-00151-KLD Document 31 Filed 06/03/24 Page 30 of 56

2. Description of floodplain community and project (see Floodplain Community Attachment 1) Attach additional sheets if necessary.

[Click here to enter text.](#)

3. List the names and address of landowners adjacent to the project site. This includes properties adjacent to and across from the project site. (Some floodplain communities require certified adjoining landowner lists).

[Click here to enter text.](#)

4. List all applicable local, state, and federal permits and indicate whether they were issued, waived, denied, or pending. Note: All required local, state, and federal permits, or proof of waiver must be issued prior to the issuance of a floodplain permit.

[Click here to enter text.](#)

5. Floodplain Map Number [Click here to enter map number or N/A.](#)

6. Does this project comply with local planning or zoning regulations? ☐ Yes ☐ No

E. SIGNATURES/AUTHORIZATIONS -- Each agency must have original signatures signed in blue ink.

After completing the form, make the required number of copies and **then sign each copy**. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized.

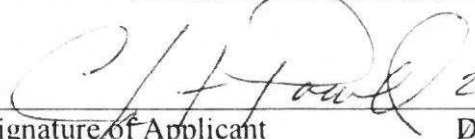
APPLICANT (Person responsible for project):

Print Name: Chester Powell, Doug Yeager

LANDOWNER:

Print Name: USFS

William Wehunt

 2/27/2020
Signature of Applicant Date

 2/28/2020
Signature of Landowner Date

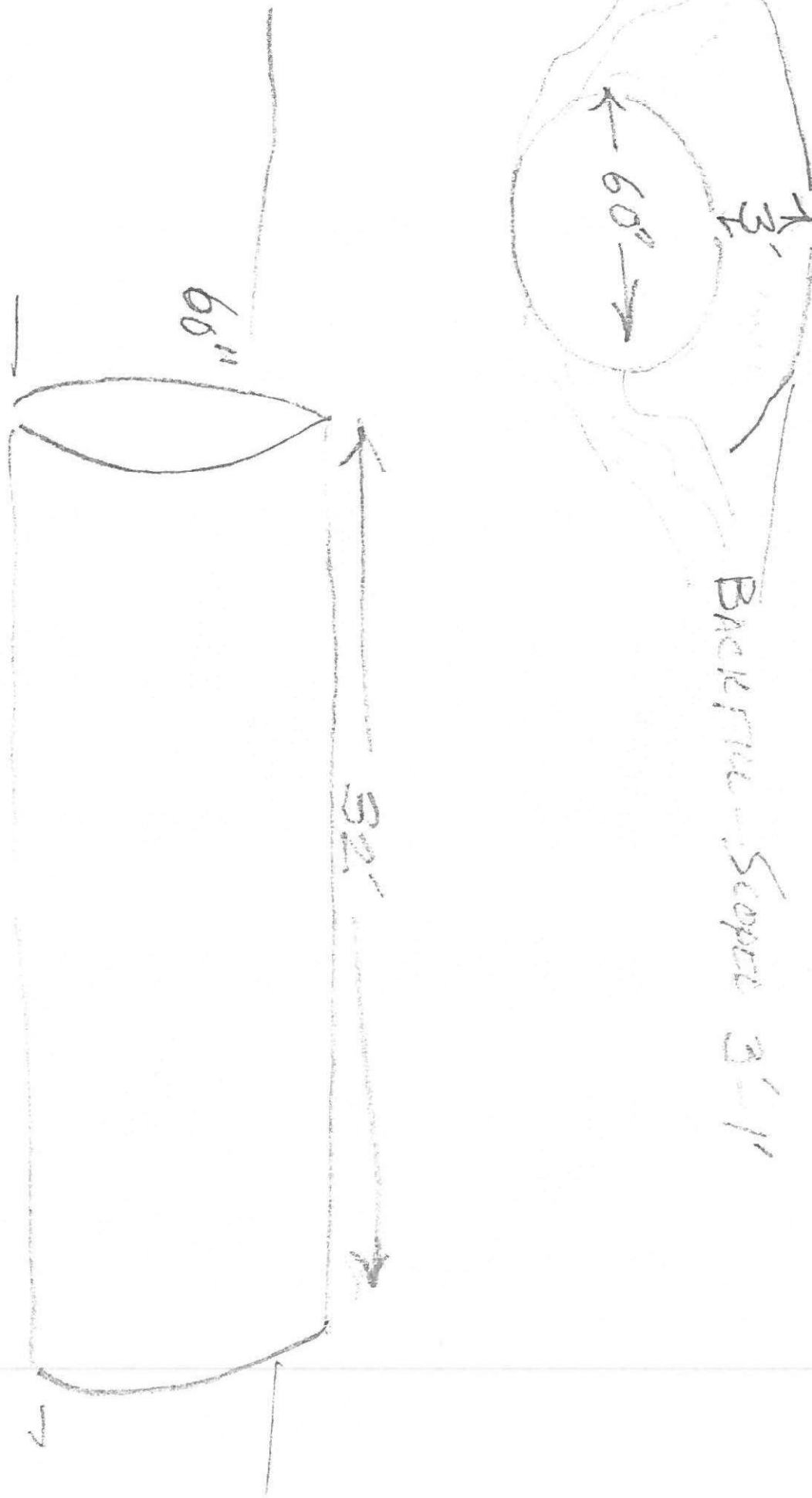
*CONTRACTOR/AGENT:

Print Name: Winter Sports Inc.

Signature of Contractor/Agent Date

*Contact agency to determine if contractor signature is required.





310-PERMIT

CONSERVATION DISTRICT'S DECISION

DECISION DATE: 9/28/2020

Notice: THIS AUTHORIZATION DOES NOT GIVE PERMISSION TO CARRY OUT A PROJECT ON LAND THAT IS NOT OWNED BY THE HOLDER OF THIS PERMIT. Landowner permission, easements or other federal, state, or local permits, licenses, special use permits, or authorizations may be required before construction of the project. It is the duty of the holder of this permit to determine which are necessary and obtain them prior to construction of the project.

Landowner Name/Address: **Flathead National Forest**

Applicant Name/Address: **Big Mountain Winter Sports Inc., PO Box 1400, Whitefish, MT 59937**

Perennial Stream: **Haskill Creek trib** Section: **35** Township: **32** Range: **22**

Supervisors' Decision (check)

- ☒ Approved
☐ Approved With Modifications
☐ Denied
☐ Not A Project

Explanation: _____

culvert

☒ See Attached (if more room is necessary)

☐ Check here if 15-day waiting period has been waived

Work may begin on or after: 10/12/2020

Permit Expiration Date: 9/28/2021

Date Transmitted to Applicant & DFWP: 10/9/2020

Supervisors' Signatures

Dana Redmore

Lori Curtis HG

Lech Naumovich HG

R. C. B. B.

Vindell Jackson

Ronald Buenteimer

Pete C. Shaw

TO BE COMPLETED BY THE APPLICANT

Check the appropriate box, sign and return a copy to the district office within 30 days of receipt of this permit.

☐ I agree to proceed with the project in accordance with the approved application and specifications outlined in this permit and will allow a follow-up inspection.

☐ I disagree with the terms of this permit and I will seek judicial review in district court within 30 days of receipt of this permit. (This box may only be checked if you did not sign an arbitration agreement when you submitted your application.)

☐ I disagree with the terms of this permit and hereby request arbitration. I agree to abide by the arbitration agreement attached to or on the reverse of this form – OR, if an arbitration agreement was signed when the permit application was submitted, I will abide that agreement.

Signature of Applicant: _____ Date: _____

FLATHEAD CONSERVATION DISTRICT

133 Interstate Lane, Kalispell, MT 59901 Phone: 406-752-4220 Fax: 406-752-4077 www.flatheadcd.org

EXHIBIT

tabbies

FCD-120

Revised: 6/5/15 (310 form 270). Form may be downloaded from: www.dnrc.mt.gov/licenses-and-permits/stream-permitting	AGENCY USE ONLY: Application # _____ Date Accepted _____ / Initials _____ Date _____	Date Received _____
This space is for all Department of Transportation and SPA 124 permits (government projects). Project Name _____ Control Number _____ MEPA/NEPA Compliance <input type="checkbox"/> Yes <input type="checkbox"/> No Contract letting date _____ If yes, #14 of this application		FL2019005 2019 LO Name: GNP Stream: Unnamed S11T33R18Topog: Mt Canon /Camas Ridge E. Supervisor/s: RB

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all local, state, or federal permits listed below. The applicant is the responsible party for the project and the point of contact unless otherwise designated. "Information for Applicant" includes agency contacts and instructions for completing this application. To avoid delays, submit all required information, including a project site map and drawings. Incomplete applications will result in the delay of the application process. Other laws may apply.

The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.

<input checked="" type="checkbox"/>	PERMIT	AGENCY	FEE
<input checked="" type="checkbox"/>	310 Permit	Local Conservation District	No fee
<input type="checkbox"/>	SPA 124 Permit	Department of Fish, Wildlife and Parks	No fee
<input type="checkbox"/>	Floodplain Permit	Local Floodplain Administrator	Varies by city/county (\$25 - \$500+)
<input type="checkbox"/>	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers	Varies (\$0 - \$100)
<input type="checkbox"/>	318 Authorization	Department of Environmental Quality	\$250 (318);
<input type="checkbox"/>	401 Certification		\$400 - \$20,000 (401)
<input type="checkbox"/>	Navigable Rivers Land Use License, Lease, or Easement	Department of Natural Resources and Conservation, Trust Lands Management Division	\$50, plus additional fee

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): Flathead Electric Cooperative (David Preble)

Has the landowner consented to this project? ☒ Yes ☐ No

Mailing Address: 2510 US Hwy 2 East

Physical Address: _____

Day Phone: 406-751-4466 Evening Phone: 406-253-9514 E-Mail: d.preble@flathead.coop

NAME OF LANDOWNER (if different from applicant): Glacier National Park

Mailing Address: PO Box 128, West Glacier MT 59936

Physical Address: 64 Grinnell Drive, West Glacier MT 59936

Day Phone: 406-888-7800 Evening Phone: _____ E-Mail: _____

NAME OF CONTRACTOR/AGENT (if one is used): Rocky Mountain Contractors Inc.

Mailing Address: 2214 US Hwy 2 E, Kalispell MT

Physical Address: _____

Day Phone: 406-752-4277 Evening Phone: _____ E-Mail: _____

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location No Name _____ Nearest Town West Glacier

Address/Location: 599 North McDonald Lake Road Geocode (if available): _____

NE 1/4 SE 1/4 NW 1/4, Section 11, Township 33N, Range 18W County Flathead

Longitude 113.877, Latitude 48.641

The state owns the beds of certain state navigable waterways. Is this a state navigable waterway? Yes or No.
If yes, send copy of this application to appropriate DNRC land office – see Information for Applicant.

RECEIVED

FEB 01 2019
Copies sent to R&B FWP 2/4/19

ATTACH A PROJECT SITE MAP OR A SKETCH that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) a circled "X" representing the exact project location. IF NOT CLEARLY STATED ON THE MAP OR SKETCH, **PROVIDE WRITTEN DIRECTIONS TO THE SITE.**

C. PROJECT INFORMATION

1. **TYPE OF PROJECT** (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Bridge/Culvert/Ford Construction | <input type="checkbox"/> Fish Habitat | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Bridge/Culvert/Ford Removal | <input type="checkbox"/> Recreation (docks, marinas, etc.) | <input type="checkbox"/> Dredging |
| <input type="checkbox"/> Road Construction/Maintenance | <input type="checkbox"/> New Residential Structure | <input type="checkbox"/> Core Drill |
| <input type="checkbox"/> Bank Stabilization/Alteration | <input type="checkbox"/> Manufactured Home | <input type="checkbox"/> Placement of Fill |
| <input type="checkbox"/> Flood Protection | <input type="checkbox"/> Improvement to Existing Structure | <input type="checkbox"/> Diversion Dam |
| <input type="checkbox"/> Channel Alteration | <input type="checkbox"/> Commercial Structure | <input checked="" type="checkbox"/> Utilities |
| <input type="checkbox"/> Irrigation Structure | <input type="checkbox"/> Wetland Alteration | <input type="checkbox"/> Pond |
| <input type="checkbox"/> Water Well/Cistern | <input type="checkbox"/> Temporary Construction Access | <input type="checkbox"/> Debris Removal |
| <input type="checkbox"/> Excavation/Pit | <input type="checkbox"/> Other _____ | |

2. **PLAN OR DRAWING** of the proposed project **MUST** be attached. **This plan or drawing must include:**

- a plan view (looking at the project from above)
- dimensions of the project (height, width, depth in feet)
- location of storage or stockpile materials
- drainage facilities
- an arrow indicating north
- a cross section or profile view
- an elevation view
- dimensions and location of fill or excavation sites
- location of existing or proposed structures, such as buildings, utilities, roads, or bridges

3. **IS THIS APPLICATION FOR** an annual maintenance permit? ☐ Yes ☐ No
(If yes, an annual plan of operation must be attached to this application – see "Information for Applicant")

4. **PROPOSED CONSTRUCTION DATE.** Include a project timeline. Start date 4 / 1 / 2019
Finish date 9 / 30 / 19 Is any portion of the work already completed? ☐ Yes ☒ No
(If yes, describe the completed work.)

5. **WHAT IS THE PURPOSE** of the proposed project?
Install a primary power line to serve privately owned properties

6. **PROVIDE A BRIEF DESCRIPTION** of the proposed project.
By use of directional bore, install conduit for primary power line beneath creek.

7. **WHAT IS THE CURRENT CONDITION** of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands.
Project site lies alongside shoulder of No. McDonald lake road.

8. **PROJECT DIMENSIONS.** How many linear feet of bank will be impacted? How far will the proposed project encroach into and extend away from the water body?
Zero impact expected.

9. **VEGETATION.** Describe the vegetation present on site. How much vegetation will be disturbed or covered with fill material during project installation? (Agencies require that only vegetation necessary to do the work be removed.) Describe the revegetation plan for all disturbed areas of the project site in detail.
Natural stream course vegetation will not be impacted.

10. **MATERIALS.** Describe the materials proposed to be used. Note: This may be modified during the permitting process. It is recommended you do not purchase material until all permits are issued.

Cubic yards/Linear feet	Size and Type	Source
N/A		

11. **EQUIPMENT.** List all equipment that will be used for construction of the project. How will the equipment be used on the bank and/or in the water? Note: Make sure equipment is clean and free of weeds, weed seeds, and excess grease before using it in the water waterway. To prevent the spread of aquatic invasive species, to the extent practical, remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species. Drain water from machinery and let dry before moving to another location.
Directional boring equipment: Boring machine, slurry/pump truck, conduit reel trailer/truck. No equipment shall be in water or near the bank.

12. **DESCRIBE PLANNED EFFORTS TO MINIMIZE PROJECT IMPACTS.** Consider the impacts of the proposed project, even if temporary. What efforts will be taken to:

- Minimize erosion, sedimentation, or turbidity?

Directional bore

- Minimize stream channel alterations?

Directional bore

- Minimize effects to stream flow or water quality caused by materials used or removal of ground cover?

Directional bore

- Minimize effects on fish and aquatic habitat?

Directional bore

- Minimize risks of flooding or erosion problems upstream and downstream?

Directional bore

- Minimize vegetation disturbance, protect existing vegetation, and control weeds?

Directional bore

13. **WHAT ARE THE NATURAL RESOURCE BENEFITS** of the proposed project?

Provide power for new septic/sewage treatment systems.

14. **LIST ALTERNATIVES** to the proposed project. Why was the proposed alternative selected?

No other alternatives exist.

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS ONLY.

If applying for a Section 404 or Section 10 permit, fill out questions 1-3. If applying for a floodplain permit, fill out questions 3-6. (Additional information is required for floodplain permits – See "Information for Applicant.")

1. Will the project involve placement of dredged (excavated) and/or fill material below the ordinary high water mark, in a wetland, or other waters of the US? If yes, what is the surface area to be filled? How many cubic yards of fill material will be used? Note: Wetland delineations are required if wetlands are affected.
2. Description of avoidance, mitigation, and compensation (see Information for Applicant). Attach additional sheets if necessary.
3. List the names and address of landowners adjacent to the project site. This includes properties adjacent to and across from the project site. (Some floodplain communities require certified adjoining landowner lists).
4. List all applicable local, state, and federal permits and indicate whether they were issued, waived, denied, or pending. Note: All required local, state, and federal permits, or proof of waiver must be issued prior to the issuance of a floodplain permit.
5. Floodplain Map Number _____
6. Does this project comply with local planning or zoning regulations? ☒ Yes ☐ No


E. SIGNATURES/AUTHORIZATIONS -- Each agency must have original signatures signed in blue ink.

After completing the form, make the required number of copies and then sign each copy. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized.

APPLICANT (Person responsible for project):

Print Name: Flathead Electric Cooperative

 2/1/19
Signature of Applicant Date

LANDOWNER:

Print Name: Glacier National Park

Signature of Landowner Date

*CONTRACTOR/AGENT:

Print Name: Rocky Mountain Contractors

Signature of Contractor/Agent Date

*Contact agency to determine if contractor signature is required.

Form 270a FCD (rev 2015)

(Required to be completed as part of the 310-application if anyone except the landowner is responsible for work on the project.
AR, Rule 7 (b))

Stream Work Authorization and Permission
For the
Mt. Natural Streambed & Land Preservation Act ("310")

Landowner Information:

Name: US Government, Glacier National Park

Mailing Address: PO Box 128
West Glacier, MT 59936

Applicant/Contractor Information:

Name: Flathead Electric Cooperative

Address: 2510 US Hwy 2 East
Kalispell, MT 59901

As the landowner, I do hereby give permission to the above named applicant/contractor to enter upon and to proceed with work on my property located at:

Site Address: 599 North McDonald Lake Road

Glacier National Park, MT 59936

I also authorize the inspection of the project site by inspecting authorities.

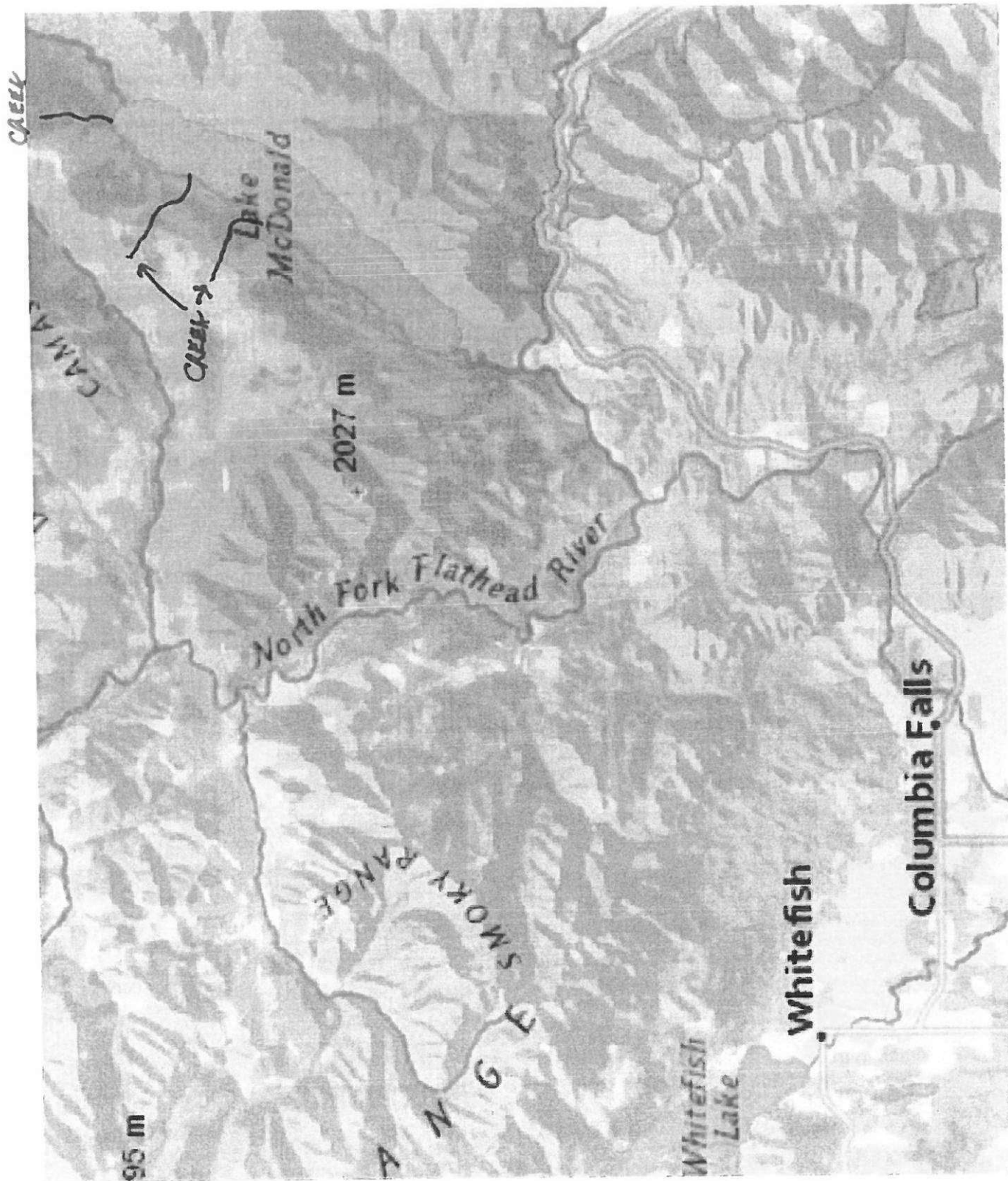
I understand that I, as current legal landowner, am also responsible to see that the work meets the final specifications as determined by the Flathead Conservation District.

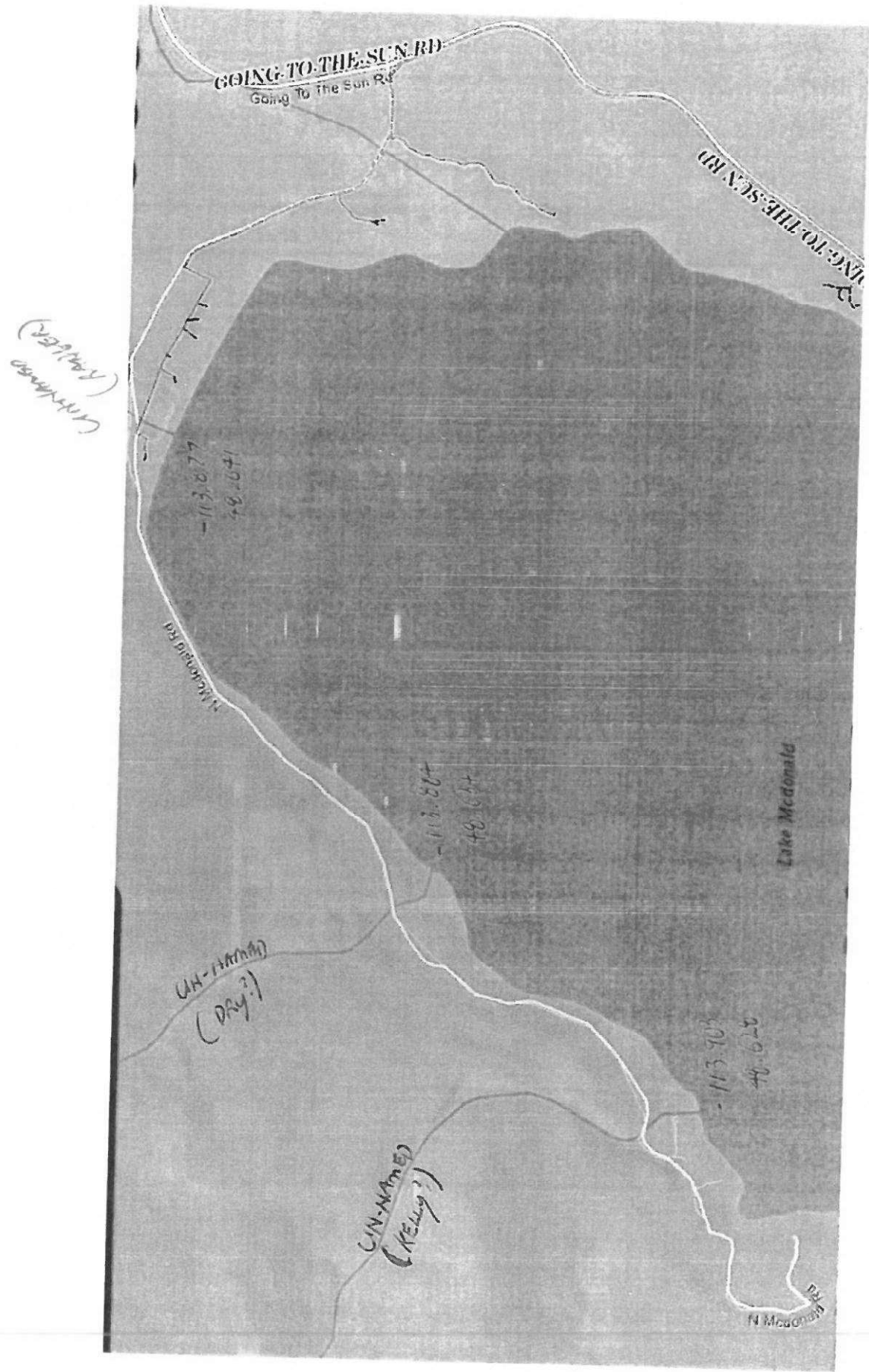
Signed,

Landowner signature – *faxed, electronic, and photocopied signatures are acceptable* (Date)

Attach original to 310-application & return to:

Flathead Conservation District
133 Interstate Lane
Kalispell, MT 59901
Phone (406) 752-4220, Fax (406) 752-4077

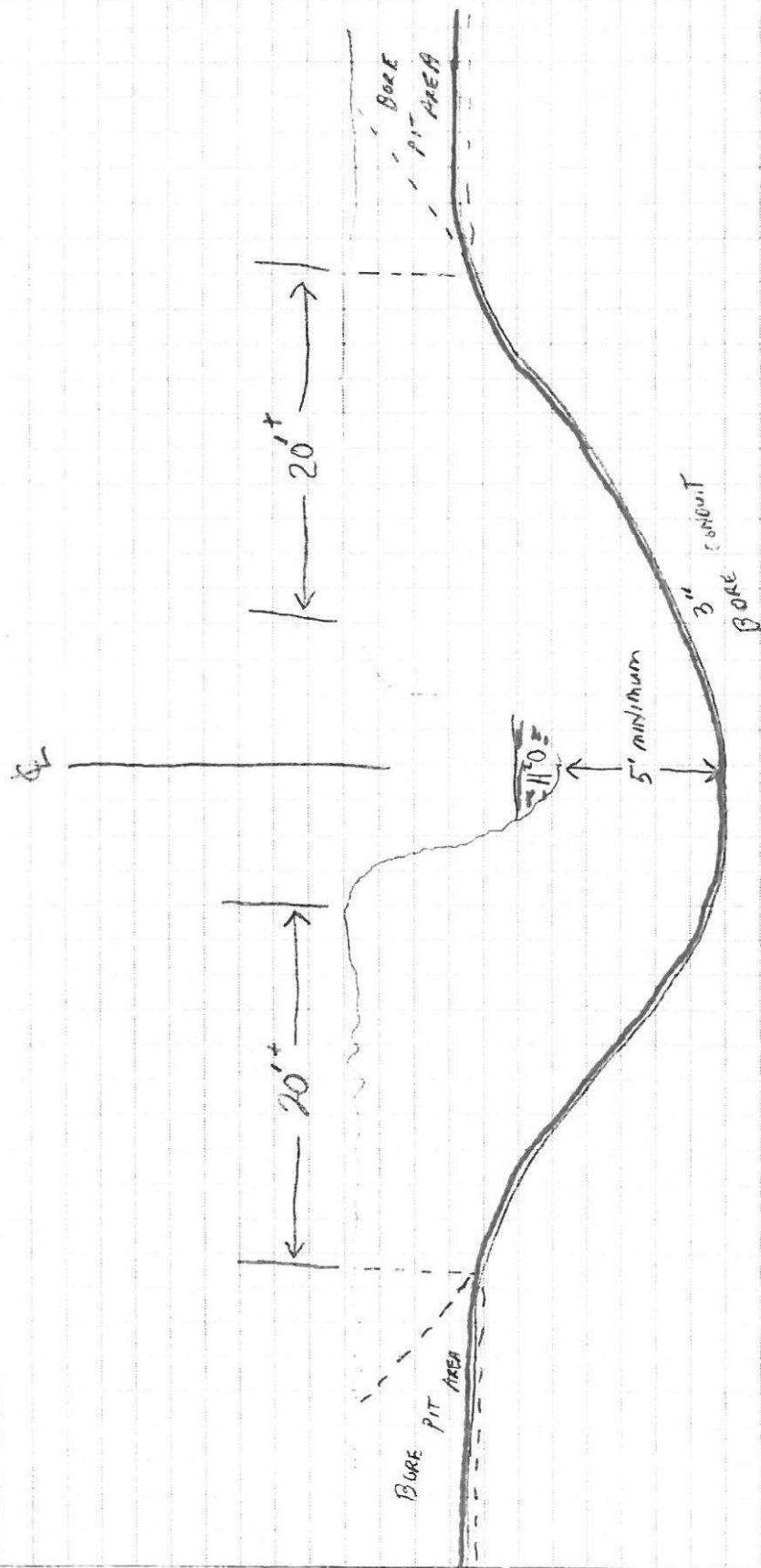


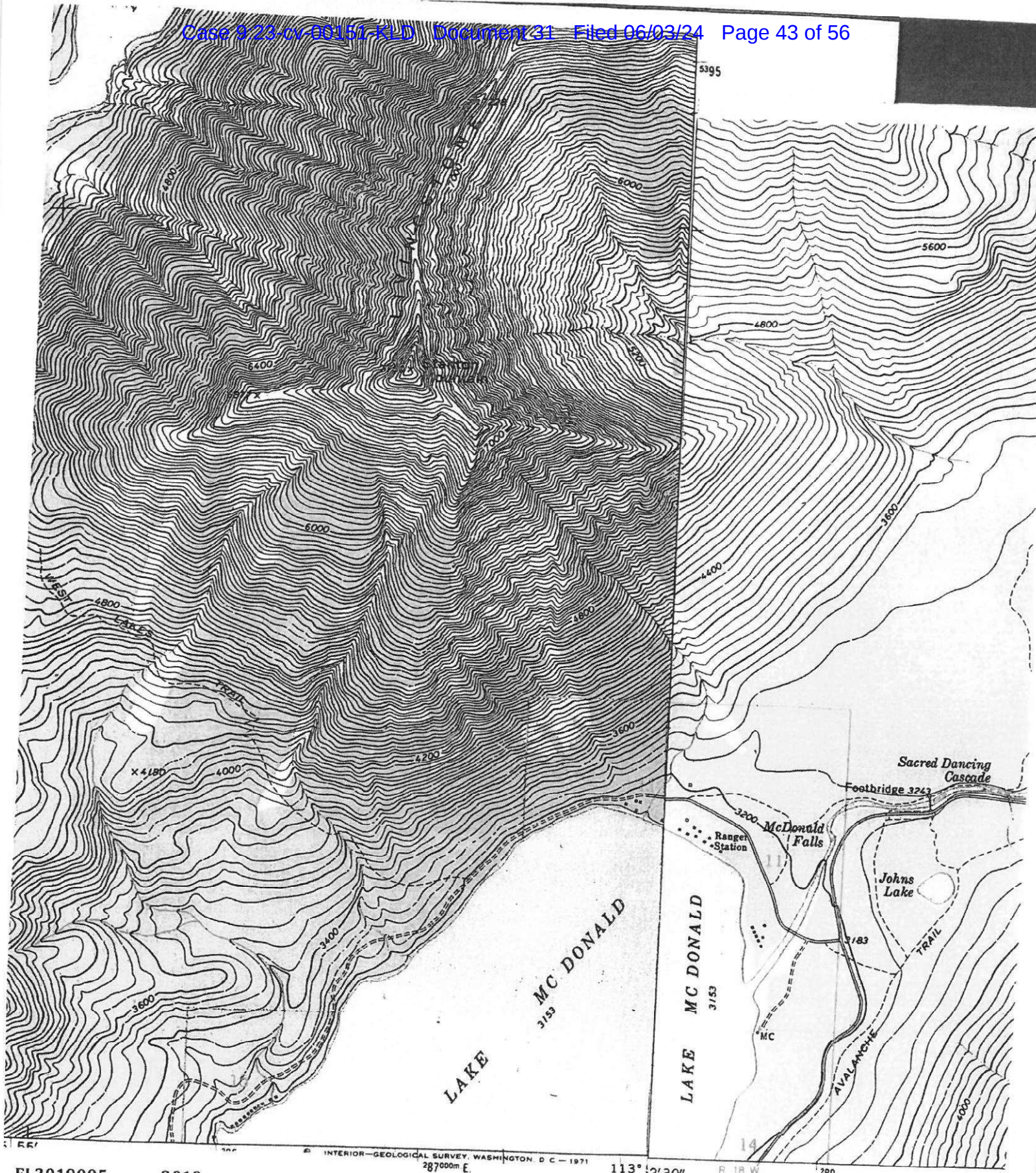




NAME: McDonald Lake Creek Bore
WO #: 20180123 & 20181685
DATE: 1/31/19
BY: None
SCALE: None SHEET 1 OF 1

TYPICAL CREEK BORE





FL2019005 2019

LO Name: GNP

Stream: Unnamed

S11T33R18Topog: Mt Canon

/Camas Ridge E. Supervisor/s: RB

ROAD CLASSIFICATION

ad, all weather,
faceUnimproved road, fair or dry
weatherMapped, edited, and published by the Geological
Control by USGS and USC&GSTopography by photogrammetric methods from aerial
photographs taken 1966. Field checked 1968Polyconic projection. 1927 North American datum
10,000-foot grid based on Montana coordinate system,
north zone



FLATHEAD COUNTY GIS

KALISPELL, MONTANA

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[Help](#)

[Contact Us](#)

map scale: **1:7,985** map center: latitude **48° 38' 8.65** longitude **-113° 51' 16.35** active tool: **pan map** active layer: **Parcel Owners Physical Address ▼**



**310 PERMIT
CONSERVATION DISTRICT'S DECISION**

DECISION DATE: 2/11/19

Notice: THIS AUTHORIZATION DOES NOT GIVE PERMISSION TO CARRY OUT A PROJECT ON LAND THAT IS NOT OWNED BY THE HOLDER OF THIS PERMIT. Landowner permission, easements or other federal, state, or local permits, licenses, special use permits, or authorizations may be required before construction of the project. It is the duty of the holder of this permit to determine which are necessary and obtain them prior to construction of the project.

Landowner Name/Address: **Glacier National Park, PO Box 128, West Glacier, MT 59936**
Applicant Name/Address: **Flathead Electric Coop, 2214 US Hwy 2 E., Kalispell, MT 59901**
Perennial Stream: **Unnamed** Section: **11** Township: **33** Range: **18**

Supervisors' Decision (check)

- ☒ Approved
☐ Approved With Modifications
☐ Denied
☐ Not A Project

Explanation: _____

utilities

☒ See Attached (if more room is necessary)

☐ Check here if 15-day waiting period has been waived

Work may begin on or after: 2/25/19

Permit Expiration Date: 7/1/2019

Date Transmitted to Applicant & DFWP: 2/15/19

Supervisors' Signatures

Pete C. Shaw
Ron Sluik
JOE S. S.
Verdell Jackson
Ronald Blumenthal
Alan L. L.

TO BE COMPLETED BY THE APPLICANT

Check the appropriate box, sign and return a copy to the district office within 15 days of receipt of this permit.

- ☐ I agree to proceed with the project in accordance with the approved application and specifications outlined in this permit and will allow a follow-up inspection.
- ☐ I disagree with the terms of this permit and I will seek judicial review in **district court** within 15 days of receipt of this permit. (This box may only be checked if you did not sign an arbitration agreement when you submitted your application.)
- ☐ I disagree with the terms of this permit and hereby request **arbitration**. I agree to abide by the arbitration agreement attached to or on the **reverse of this form** – OR, if an arbitration agreement was signed when the permit application was submitted, I will abide that agreement.

Signature of Applicant: _____ Date: _____

FLATHEAD CONSERVATION DISTRICT

133 Interstate Lane, Kalispell, MT 59901 Phone: 406-752-4220 Fax: 406-752-4077 www.flatheadcd.org

NATURAL STREAMBED AND LAND PRESERVATION ACT - ARBITRATION AGREEMENT

The Natural Streambed and Land Preservation Act arbitration process is governed by the Uniform Arbitration Act, MCA §27-5-111 through §27-5-324, except as expressly provided as provided herein. According to MCA §75-15-112, any team member may request arbitration. The team includes the applicant, a representative of the Department of Fish, Wildlife and Parks, and a representative of the conservation district.

1. Parties. The applicant and the conservation district are always a party to the arbitration process. If the applicant requests arbitration, parties will include the applicant and the conservation district. If the Department of Fish, Wildlife and Parks requests arbitration, parties will include the Department of Fish, Wildlife and Parks, the applicant, and the conservation district. If the conservation district representative requests arbitration, the parties will include the conservation district, the conservation district's representative, and the applicant. The team member requesting arbitration is the contesting party.

2. Administering Agency. The conservation district or the county attorney will act as the administering agency for the arbitration process. The conservation district shall provide clerical services to collect fees associated with the costs of the arbitration panel.

3. Selection of the Arbitration Panel. Within 30 days of the request for arbitration, the contesting party and the conservation district will submit to the administering agency the names and qualifications of three consenting persons who reside in the judicial district in which the dispute is taking place. The consenting persons must reside in the judicial district in which the dispute takes place. The parties may agree on a list of no less than four consenting persons to act as the arbitrators to be submitted to the senior judge. That list shall contain all of the names and qualifications of the consenting persons without designating the party submitting the names to the conservation district. The senior judge will select three persons from the list who, from a review of the qualifications, appear to be the most impartial to serve as arbitrators. If the contesting party fails to submit names within 30 days, the request for arbitration is deemed withdrawn. If the other parties fail to submit names and qualifications, the arbitrators must be selected from the list provided by the administering agency by the senior district judge. The arbitration panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project pursuant to this arbitration agreement and in accordance with the statutory criteria set forth in MCA §75-7-112, implementing rules, and the policy set forth by MCA §75-7-102. The panel may appoint a chair. The powers of the arbitration panel shall be exercised by majority agreement of the panel. If during the course of the hearing an arbitrator ceases to act, the remaining panel members may continue with the hearing and make a determination on the dispute.

4. Costs of the Arbitration. Costs of the arbitration panel, computed as for jurors' fees under MCA §3-15-201, shall be borne by the contesting party. Clerical costs of the panel shall be paid by the non-prevailing party as determined by the panel. For all other expenses, including counsel fees, each party shall bear its own costs.

5. Prehearing. The panel may call a prehearing conference to set the arbitration schedule, and to request specific written information from the parties.

6. Date, Time, and Place of Hearing. The panel will select the time and place for the hearing. The hearing must be held in the judicial district in which the dispute takes place. The panel may consider requests for specific locations for the hearing. The panel may conduct on-site inspections. The panel may require the parties to submit copies of exhibits and a summary of its case, including a list of witnesses, to the panel and all other parties, prior to the hearing.

7. Notice of Hearing. Not less than ten days before the hearing, the administering agency shall give notice to each party. The notice must be by personal delivery or by certified mail. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

8. Representation. All parties have the right to be represented by an attorney. The arbitration panel may request the district court issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. The provisions of law providing for service of subpoenas are applicable. The arbitration panel may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision.

9. Procedure at the Hearing. Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. If there is more than one contesting party, then the chair shall determine the order of presentation by the contesting parties. The other parties will follow, in turn as directed by the chair, with their witnesses and evidence. A witness is subject to cross-examination by the parties to the proceeding. A panel member may ask questions of any witness or party to the dispute. Each party may conclude with closing remarks or statements summarizing their positions and evidence. The hearing must be tape-recorded. If the judicial review is necessary, the tapes or relevant portions of the tapes may be transcribed. The parties may arrange for a transcription of the hearing at their own cost.

10. Award. The award is the final decision of the arbitration panel. The award must be in writing and signed by the arbitrators. The arbitration panel's award must be issued within 60 days after the hearing. The arbitration panel shall deliver a copy of the decision to each of the parties and the district judge either personally or by certified mail. The district court shall confirm the panel's award, unless a party applies and shows grounds for vacating, modifying, or correcting the award.

11. Judicial Review. If the panel's decision is contested, the court will review the panel's decision in accordance with MCA §27-5-312 and 313, Uniform Arbitration Act.

12. Other. Please specify.

Requesting Party

Date: _____

Conservation District

Date: _____



Flathead Conservation District

133 Interstate Lane, Kalispell, MT 59901

Phone: 406-752-4220 Fax: 406-752-4077

Website: www.flatheadcd.org

310-PERMIT ATTACHMENT

MONTANA NSLPA 310 PERMIT: #FL2019005, unnamed stream, GNP

Legal Description: S11 T33 R18

Landowner: Glacier National Park, PO Box 128, West Glacier, MT 59936

Applicant: Attn: David Preble, Flathead Electric Coop.,
2510 US Hwy 2 East, Kalispell, MT 59901

Stream: Unnamed

Decision Date: 2/11/2019

Approved Project: utilities

Permit Expiration Date: 7/1/2019

WORK MAY BEGIN ON OR AFTER: 2/25/2019

(Note: If date listed, this date is 15-days after the decision is made. Day 1 is date of decision) only if the "310 PERMIT CONSERVATION DISTRICT'S DECISION" form has been signed by the applicant/landowner & returned to the Flathead CD within 15 days of receipt of the permit. Failure to return the form will automatically **VOID** the permit without further warning.

SPECIFICATIONS & STANDARDS

Work is to be completed as outlined in the application, in addition to the following **points**:

UTILITY LINES (ELECTRICAL, SEWER LINES - DISPOSAL FACILITIES,

UTILITY LINE BURIAL - BORING - TRENCHING, WATERLINES, WELLS AND CISTERNS)

Standards

a. Sewer lines/Disposal facilities:

Streamside sewage pump out facilities may be placed in public or private marinas or public parks.

- i. Such facilities must include equipment to pump or otherwise receive and transfer contents of vessel holding tanks into a sewage retention and/or disposal system located outside the flood plain.
- ii. Such facilities must include in the design appropriate plans to prevent all spillage or leakage from entering the stream.

b. Utility Line Burial:

i. Boring

1. The proposed activity may be determined by the board, after reviewing the application, to not be a project requiring a permit if utility line boring takes place a minimum of twenty (20) feet away from the top of the highest bench of the bank, and takes place a minimum of five (5) feet below the lowest part of the stream.

2. No discharged material from the drilling process can enter into the stream and its' immediate banks.
3. This rule can only be used if the Flathead Conservation District office is notified ten (10) days before the proposed project is to begin and standards i.1. and i.2. are met.

ARBITRATION

Note that if you do not agree with the Conservation District's Decision you may request arbitration, or seek judicial review in district court within 15 days of receipt of this permit. (Note: the day after receipt is considered day 1) (See NATURAL STREAMBED AND LAND PRESERVATION ACT - ARBITRATION AGREEMENT on the back side of the 310 PERMIT CONSERVATION DISTRICT'S DECISION form).

WORK COMPLETION, PERMIT EXTENSION, INSPECTION

- When work has been completed, you are required to fill out and return the enclosed 310-PERMIT WORK COMPLETION FORM to the Flathead Conservation District office so that a follow-up inspection can be made.
- If the project is not completed, a written request for a **time extension** must be received in the Flathead Conservation District office prior to the expiration date. (Note: only one time extension is allowed.) If the extension request is received after the expiration date, you must re-apply for another permit. You must have a valid permit before beginning any work.
- The Flathead Conservation District retains the right to inspect the project during and after construction, and will contact the landowner/applicant.

RELIANCE ON APPLICANT'S DATA

It is the determination of this office that issuance of this permit was made in reliance on the information you provided.

RE-EVALUATION OF PERMIT DECISION

This office may re-evaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:


- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See RELIANCE ON APPLICANT'S DATA)
- c. Significant new information surfaces which this office did not consider in reaching the original decision.

PERMITTEE'S RISK

The permittee is hereby notified that any financial outlay or work invested in a project pursuant to this authorization is at the permittee's risk. The issuance of this authorization does not reduce the permittee's liability for damage caused by development of the authorized project. Nor does the conservation district in issuing this authorization in any way acknowledge liability for damage caused by the permittee's development of the authorized project.

OTHER NECESSARY PERMITS

The FCD Board of Supervisors advises that **the issuance of a 310-permit does not relieve the parties involved from securing other necessary permits** which are listed in the application form.



Ronald Buentemeier, Supervisor

cc: Montana Fish, Wildlife and Parks, Kalispell
Landowner

ORIGINAL to: Applicant

310-Permit Work Completion Form

310-Permit Information

MONTANA NSLPA 310 PERMIT: #FL2019005, unnamed stream, GNP

Legal Description: S11 T33 R18

Landowner: Glacier National Park, PO Box 128, West Glacier, MT 59936

Applicant: Attn: David Preble, Flathead Electric Coop.,
2510 US Hwy 2 East, Kalispell, MT 59901

Stream: Unnamed

Decision Date: 2/11/2019

Approved Project: utilities

Permit Expiration Date: 7/1/2019

Requirements

- The Applicant/Landowner is required to return this form to the Flathead Conservation District when work is completed or the permit expires.
- Include pre and post photos of the project.

Date work completed _____

Note: If work not completed, provide explanation below.

Explanation

Contact Information (Required for Follow-Up Inspection)

Name _____

Address _____

Phone/Cell # _____

Email _____

Flathead Conservation District

133 Interstate Lane, Kalispell, MT 59901, Phone: 406-752-4220, Fax 406-752-4077

Website: www.flatheadcd.org



Rev. 5/2017

**310 PERMIT
CONSERVATION DISTRICT'S DECISION**

DECISION DATE: 2/11/19

Notice: THIS AUTHORIZATION DOES NOT GIVE PERMISSION TO CARRY OUT A PROJECT ON LAND THAT IS NOT OWNED BY THE HOLDER OF THIS PERMIT. Landowner permission, easements or other federal, state, or local permits, licenses, special use permits, or authorizations may be required before construction of the project. It is the duty of the holder of this permit to determine which are necessary and obtain them prior to construction of the project.

Landowner Name/Address: **Glacier National Park, PO Box 128, West Glacier, MT 59936**
Applicant Name/Address: **Flathead Electric Coop, 2214 US Hwy 2 E., Kalispell, MT 59901**
Perennial Stream: **Unnamed** Section: **11** Township: **33** Range: **18**

Supervisors' Decision (check)

- ☒ Approved
☐ Approved With Modifications
☐ Denied
☐ Not A Project

Explanation: _____

utilities

☒ See Attached (if more room is necessary)

☐ Check here if 15-day waiting period has been waived

Work may begin on or after: 2/25/19

Permit Expiration Date: 7/1/2019

Date Transmitted to Applicant & DFWP: 2/15/19

Supervisors' Signatures

Dale C. Smith

Ron Slunk

JOE S. S.

Verdell Jackson

Ronald B. B.

Alan L. L.

TO BE COMPLETED BY THE APPLICANT

Check the appropriate box, sign and return a copy to the district office within 15 days of receipt of this permit.

☐ I agree to proceed with the project in accordance with the approved application and specifications outlined in this permit and will allow a follow-up inspection.

☐ I disagree with the terms of this permit and I will seek judicial review in **district court** within 15 days of receipt of this permit. (This box may only be checked if you did not sign an arbitration agreement when you submitted your application.)

☐ I disagree with the terms of this permit and hereby request **arbitration**. I agree to abide by the arbitration agreement attached to or on the **reverse of this form** – OR, if an arbitration agreement was signed when the permit application was submitted, I will abide that agreement.

Signature of Applicant: Dave P.

Date: 2/19/19

FLATHEAD CONSERVATION DISTRICT

133 Interstate Lane, Kalispell, MT 59901 Phone: 406-752-4220 Fax: 406-752-4077 www.flatheadcd.org

310-PERMIT APPLICATION #FL2019005, Unnamed Stream, GNP

RECEIVED

FEB 21 2019

Flathead CD

NATURAL STREAMBED AND LAND PRESERVATION

NOTICE OF PROPOSED PROJECT

tabbies

FCD-107

App. No. FL-24-72Date Rec'd 7-11-77

1. a. Name of Applicant U.S. Forest Service, Flathead National Forest, Glacier View R.D.
 Address Box W City or Town Columbia Falls
 State Montana Zip Code 59912 Telephone No. 892-4372
- b. Name and address of owner of site: (If different from applicant)
James Lenon Telephone No. _____
Box 872, Whitefish, MT 59937
- c. Name, address and title of applicant's authorized agent for permit application coordination: (attorney, business manager, etc.)
 _____ Telephone No. _____
2. Name of stream at location of activity: Big Creek County: Flathead
 Location of the proposed activity: ____ % ____ % ____ % Section 23 Township 32N Range 22W
3. Describe proposed activity, type of structure, method of construction, materials and equipment to be used:
Work will consist of removal of temporary culverts or bridges which have collapsed into the streams or threaten to do so, construction of earthen erosion barriers on temporary roads and old skid trails, open berms along abandoned travel routes, and seed disturbed areas with grass seed to provide protective ground cover. Equipment planned to be used will be a D-6 or equivalent size crawler tractor w/winch and hydraulic controlled blade.
4. Date activity is proposed to commence: 9/1/77 Date activity is expected to be completed: 9/23/77
5. Names and addresses of surrounding property owners and those whose lands adjoin the stream near the point of activity: (upstream, downstream across)
American Timber Co.
136 1st Ave. East
Kalispell, MT 59901
6. Has any agency denied approval for the activity described herein or for any activity related to the activity described herein? ____ Yes X No
 If yes, explain further on attachment.
7. THE APPLICANT CERTIFIES THAT THE STATEMENTS APPEARING HEREIN ARE TO THE BEST OF HIS KNOWLEDGE TRUE AND CORRECT, AND HEREBY AUTHORIZES THE INSPECTION OF THE PROJECT SITE BY INSPECTING AUTHORITIES.

Signature: Ronald Chubb

District Ranger

Date: 7/5/77

271 R1/77

THE FOLLOWING ITEMS ARE NOT TO BE COMPLETED BY THE APPLICANT

The application proposal (is) (is not) a project as defined by the Natural Streambed and Land Preservation Act. Reasons:Proposed project could have significant impact on stream.

If the application is not a project as defined in this act, applicant may proceed with proposal.

BOARD'S SIGNATURES:

Ruben Street
Donald K. Jacoby
Walter Koenig
Date: 7/11/77

STATE OF MONTANA
NATURAL STREAMBED AND LAND PRESERVATION ACT
BOARD'S DECISION

Name of District (or County if applicable) FLATHEAD CONSERVATION DISTRICT; KALISPELL, MT.

Address 685 Sunset Blvd. Telephone Number 257-6242

Name of Applicant U.S. FOREST SERVICE; F.N.F; Glacier View Ranger District

Board Decision (circle): Approval Denial Approved with Modification

Board's Signatures:

Harb Keenig
Ruben Street
Arnold W. Jacobson
Harold H. Hansen

Date Transmitted to Applicant and Department Team Members _____

"Approval" permits applicant to proceed with project upon expiration of 10 days after receipt of this decision unless arbitration is requested by the Department of Fish and Game within five days.

No work may begin on any project "approved with modification" unless written permission is given by all team members within 15 days or if arbitration is requested by the Department of Fish and Game within five days.

To be filled out by applicant and returned to the supervisors within 15 days if applicable.

☐ I hereby agree to proceed with the project in accordance with the proposed board modifications contained herein.

☐ I prefer to go to arbitration (notice within five days)

Signature of Applicant _____

Printed or Typed Name _____

June 13, 1977

Mr. Ronald C. Prichard, District Ranger
Glacier View Ranger District, Flathead National Forest
U.S. Forest Service
Box W
Columbia Falls, Mt. 59912

Dear Mr. Prichard:

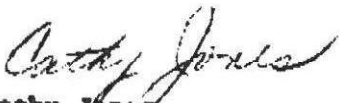
Your six applications for work on Big Creek were reviewed at the regular meeting of the Board of Supervisors of the Flathead Conservation District. Enclosed you will find the six permits which were approved with the following stipulations:

- 1) Project plans will remain "open" for modification or additions after discussion and agreements with all parties (USFS, Mt. Fish & Game, Flathead Conservation District).
- 2) We would like to be advised when the project work starts and will volunteer our assistance in decisions on any hydraulic problems.

If you have any questions concerning this, please contact our office.

The Board of Supervisors advises that the issuance of this permit does not relieve any party from compliance with other laws such as the Corps of Engineers' "404" Permit, water quality laws, etc.

Sincerely,


Cathy Jones
Administrative Assistant